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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF ALAMEDA**

13 JOSELUIS DAVILA, as an individual and on
behalf of all others similarly situated, and as a
14 private attorney general,

15 Plaintiff,

16 vs.

17 HAYWARD SISTERS HOSPITAL dba ST.
ROSE HOSPITAL, a California corporation; and
18 DOES 1 through 50, inclusive,

19 Defendants.

Case No. RG20074747

[Hon. Brad Seligman, Department 23]

**[PROPOSED] AMENDED FINAL
JUDGMENT**

Date: December 19, 2023
Time: 3:00 p.m.
Department: 23

Complaint Filed: September 23, 2020

FILED
ALAMEDA COUNTY

DEC 13 2023

CLERK OF THE SUPERIOR COURT

By *Debra H. [Signature]* Deputy

Electronically Received 12/13/2023 1:32 PM

1 On or about March 17, 2023, Plaintiff, Joseluis Davila, filed a motion for an Order Granting
2 Final Approval of Class Action Settlement, and on April 11, 2023, a hearing was held on this matter. On
3 April 11, 2023, the Court entered the Order Granting Final Approval of Class Action Settlement
4 that set a compliance hearing for December 12, 2023. On December 11, 2023, the Court continued
5 the compliance hearing to December 19, 2023, and directed the Parties to submit a proposed
6 amended judgment.

7 The Court has considered the papers and evidence, including the Joint Stipulation of Class
8 Action Settlement and Release ("Agreement"), the arguments of counsel, and all other matters presented
9 to the Court regarding final approval of the settlement, approval of requested allocations from the
10 settlement fund, and entry of final judgment.

11 **I. Recital**

12 On September 23, 2020, Plaintiff, Joseluis Davila, filed this class and Labor Code Private
13 Attorneys General Act of 2004 ("PAGA") action against Defendant, Hayward Sisters Hospital dba St.
14 Rose Hospital. The lawsuit alleges Defendant failed to furnish wage statements that accurately show the
15 total hours worked to non-exempt employees who were paid shift differential wages.

16 **A. Class Members**

17 The Class is defined to include any current or former nonexempt employees who worked for
18 Defendant in the State of California and who were paid shift differential wages at any time during the
19 Class Period. The Class Period is from September 23, 2019, through March 29, 2022. All Class
20 Members are also Aggrieved Employees. The PAGA Period is the same as the Class Period.

21 **B. Operation of the Settlement**

22 Pursuant to the Court's December 13, 2022 Preliminary Approval Order, the Court conditionally
23 certified the Class and granted preliminary approval to the settlement. The Preliminary Approval Order
24 also approved of the proposed forms of notice to the Class. The Court entered the Preliminary Approval
25 Order after review and consideration of all of the pleadings filed in connection herewith, and the oral
26 presentations made by counsel at the hearing. In compliance with the Preliminary Approval Order, the
27 Notice of Class Action Settlement ("Class Notice") was sent to all Class Members via first class mail.
28 The notice process was timely completed.

1 **II. Finding**

2 This Court finds that the Agreement appears to be the product of serious, informed, non-
3 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment
4 to any individuals. The Court further finds that the Agreement is fair, adequate, and reasonable and that
5 Plaintiff has satisfied the standards for final approval of a class action settlement under California law.
6 Under the provisions of California Code of Civil Procedure section 382 and Rule 23 of the Federal
7 Rules of Civil Procedure, as approved for use in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971),
8 the trial court has discretion to certify a class where:

9 [Q]uestions of law or fact common to the members of the class predominate over any questions
10 affecting only individual members, and that a class action is superior to the available methods for
the fair and efficient adjudication of the controversy

11 FED. R. CIV. PROC. 23.

12 Certification of a settlement class is the appropriate judicial device under these circumstances.

13 **III. Order**

14 Good cause appearing **IT IS HEREBY ORDERED AND ADJUDICATED** as follows:

15 1. For purposes of this Order, the Court adopts all defined terms as set forth in the
16 Agreement.

17 2. The Court has jurisdiction over the subject matter of the litigation, the Class
18 Representative, Settlement Class Members, and Defendant.

19 3. The Court finds that the dissemination of the Class Notice to the Class Members by the
20 appointed Settlement Administrator, Phoenix Settlement Administrators, constituted the best notice
21 practicable under the circumstances to all Class Members, and fully met the requirements of California
22 law and due process under the State and Federal Constitutions.

23 4. The Court approves the settlement of the above-captioned action, as set forth in the
24 Agreement, as fair, adequate, and reasonable to the Parties and Class Members. The Parties are directed
25 to perform in accordance with the terms set forth in the Agreement.

26 5. Except as otherwise provided in the Agreement, the Parties are to bear their own costs
27 and attorneys' fees.
28

1 6. The Court hereby certifies the following Class of all current or former nonexempt
2 employees who worked for Defendant in the State of California and who were paid shift differential
3 wages at any time from September 23, 2019, through March 29, 2022.

4 7. With respect to the Class and for purposes of approving the settlement only and for no
5 other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so
6 numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to
7 the Class, and there is a well-defined community of interest among members of the Class with respect to
8 the subject matter of the non-exempt claims in the Action; (c) the claims of Class Representative are
9 typical of the claims of the members of the Class; (d) the Class Representative has fairly and adequately
10 protected the interests of the members of the Class; (e) a class action is superior to other available
11 methods for an efficient adjudication of this controversy; and (f) the counsel of record for the Class
12 Representative, i.e., Class Counsel, are qualified to serve as counsel for Plaintiff in his individual and
13 representative capacities and for the Class.

14 8. Within seven days after the grant of Final Approval of the settlement, Defendant shall
15 deposit the Gross Settlement Amount of \$1,008,000.00 with the Administrator, pursuant to the terms of
16 the Agreement.

17 9. Subject to the holdback in Paragraph 10, the Administrator shall pay from the Gross
18 Settlement Amount:

- 19 1. to Class Counsel attorneys' fees in the amount of \$336,000.00 and reimbursement
20 of costs in the amount of \$5,047.71;
- 21 2. to Class Representative Joseluis Davila for his unique services to the Class, and as
22 consideration for the execution of a general release, the amount of \$7,500.00;
- 23 3. to the California Labor and Workforce Development Agency the amount of
24 \$108,000.00 for its 75% share of PAGA Penalties; and
- 25 4. to Phoenix Settlement Administrators the amount of \$14,000.00 for its fees and
26 costs in administering the settlement.

27 10. The Court finds that these amounts are fair and reasonable. The Administrator is directed
28 to make such payments in accordance with the terms of the Agreement, with the exception of 10% of the

1 \$336,000.00 in attorneys' fees, or \$33,600.00, which shall remain on deposit with the Administrator
2 until the completion of the settlement distribution process and the Court approves a final accounting.

3 11. The Court approves the Individual Settlement Payment and Individual PAGA Payment
4 amounts, which shall be distributed by the Administrator pursuant to the terms of the Agreement, after
5 allocation of the amounts set forth in Paragraph 9.

6 12. The Court hereby orders the parties to implement the terms of the Agreement, including
7 distributing the funds from any uncashed settlement checks pursuant to Code of Civil Procedure section
8 384 with 100% of the sum to be paid to Legal Aid at Work.

9 ~~13. A compliance hearing is set for December 12, 2023, at 3:00 p.m. in Department 23 of this~~
10 ~~Court. At least 16 days prior to the compliance hearing, Plaintiff shall file a declaration from the~~
11 ~~Administrator establishing the status of distribution of settlement funds along with a proposed amended~~
12 ~~judgment that conforms to Code of Civil Procedure section 384. If the Court approves the final~~
13 ~~accounting, it will approve an amended judgment and order the release of the holdback of 10% of the~~
14 ~~attorneys' fees and payment of any unclaimed funds to the Code of Civil Procedure section 384~~
15 ~~beneficiary.~~

16 14. All Class Members who did not opt out of the Settlement shall be bound by the releases
17 provided in the Agreement. All Aggrieved Employees shall be bound by the PAGA releases provided in
18 the Agreement. The Class Representative shall be bound by the additional general releases provided in
19 the Agreement.

20 **IV. Judgment**

21 15. The Court hereby enters final judgment in this case in accordance with the terms of the
22 Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement
23 or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the
24 Parties, including all Settlement Class Members, for purposes of enforcing and interpreting this Order
25 and the Settlement.

26 16. Pursuant to Code of Civil Procedure section 668.5, judgment shall be entered as of the
27 filing of this judgment. This judgment makes no finding of any violation of the Labor Code, liability, or
28

1 other wrongdoing. None of the settlement or any of its terms, the order approving the settlement, or this
2 judgment are an admission of any liability or finding of any violation of the Labor Code.

3 17. Pursuant to Code of Civil Procedure section 384(b) and the Declaration of Kevin
4 Lee filed on November 21, 2023, to date there are a total of 109 uncashed Individual Settlement
5 Payment checks totaling \$33,989.60. Pursuant to the Agreement, funds from these uncashed
6 checks that remain uncashed after November 20, 2023, are ordered to be remitted to Legal Aid at
7 Work.

8 18. The Court orders that the 10% of attorneys' fees on deposit with the settlement
9 administrator be released to Class Counsel.

10 IT IS SO ORDERED AND ADJUDGED.

11 DATED: 12/13, 2023



THE HONORABLE BRAD SELIGMAN

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612		FILED Superior Court of California County of Alameda 12/19/2023 Chad Finke, Executive Officer / Clerk of the Court By:  Deputy A. Hewitt
PLAINTIFF/PETITIONER: Joseluis Davila		
DEFENDANT/RESPONDENT: Hayward Sisters Hospital		
CERTIFICATE OF MAILING		CASE NUMBER: RG20074747

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the attached document upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Larry W. Lee
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515 S. Figueroa St.
Suite 1250
Los Angeles, CA 90071-

✓

Linda M Moroney
GORDON REES SCULLY
MANSUKHANI, LLP
275 Battery Street
Suite 2000
San Francisco, CA 94111-

Chad Finke, Executive Officer / Clerk of the Court

Dated: 12/19/2023

By:



A. Hewitt, Deputy Clerk

CERTIFICATE OF MAILING

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612		FILED Superior Court of California County of Alameda 12/19/2023 Chad Finke, Executive Officer / Clerk of the Court By:  Deputy A. Hewitt
PLAINTIFF/PETITIONER: Joseluis Davila		
DEFENDANT/RESPONDENT: Hayward Sisters Hospital		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER: RG20074747

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Amended Final Judgment entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Simon Yang
Diversity Law Group
sly@diversitylaw.com

Dated: 12/19/2023

Chad Finke, Executive Officer / Clerk of the Court

By:



A. Hewitt, Deputy Clerk